IN THE HIGH COURT OF JUDICATURE
ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE SRI JUSTICE J.CHELAMESWAR

WP No. 3423 of 1995

Between :

Khaja Badmuddin .. Petitioner

And

The Commissioner of Municipal Council, Nizamabad, Nizamabad District and two others .. Respondents

Dated : 29th August, 2006

ORAL ORDER :

Writ Petition is filed with the prayer as follows :

> "For the reasons stated in the affidavit, the petitioner herein prays that the Hon'ble Court may be pleased to issue a Writ or order or orders more particularly one in the nature of Writ of Mandamus directing the respondents herein to initiate the Land Acquisition Proceedings expeditiously for the land acquired for the laying of the roads to an extent of 3100 Sq. yards situated at Gurabadi Road, near Ganesh Mandir to Krishna Mill in the Sy. No. 2422 situated at Nizamabad and consequently direct the respondents to pay the compensation besides interest, solatium and other consequential benefits provided under Andhra Pradesh Land Acquisition Act and to pass such other or further orders as this Hon'ble Court may deem fit and proper in the

circumstances of the case."

The petitioner claims to be the absolute owner of an extent of 3100 sq. yards of land situated at Gurabadi Road, Near Ganesh Mandir in Sy.No.2422 of Nizamabad Town. The petitioner complains that the 1st respondent Municipality laid a road through the said land some 25 years back. Its worthwhile to mention that the writ petition itself is of the year 1995 and the affidavit filed in support of the writ petition was sworn to in February, 1995. Obviously, the road was laid in the year 1970. Its further stated in the affidavit that the petitioner went on making representations to the respondents praying that compensation to be paid for the land taken by the respondents for the purpose of laying the above mentioned road. It appears that on 25.11.1991 the 1st respondent Muncipal Council passed a resolution and the relevant portion of the same reads as follows :

> "I am to state that Sri Khaja Badiuddin S/o Khajee Lateefuddin R/o Nizamabad submitted an application on 23.11.90 stating the Municipality formed a 30'-0" Wide road on his land situated at Garbabadi road which is leading to Jayalaxmi Talkies through Sy. No. 2422 and requested to pay compensation to him. He has enclosed the copy of Pahani for the year 1954-55.
>
> The Municipal Council, Nizamabad vide Council Resolution No. 92, dt : 25.11.91 has resolved to take up land acquisition proposals under L.A. Act for consideration of payment of compensation.
>
> I therefore request you kindly take further action in the matter. A copy of the Council

Resolution No. 92, dt : 25.11.91 and site plans are enclosed herewith."

The petitioner complains that in spite of the resolution, the respondents did not take any further steps to attend to his grievance and hence the present writ petition.

A counter affidavit is filed by the 1st respondent dated 12.6.2006. At para 5 of the counter, the 1st respondent admits the resolution of the Municipal Council referred to above, but however, goes on pointing out that the petitioner himself has recognized the existence of a 30 ft road in various documents executed by him. According to the counter, the road was in existence since past 40 years, obviously, not in dispute even on the admission made by the petitioner in the affidavit. The question is whether that parcel of land on which the road is laid belongs to the petitioner or not and if so, whether the same was taken from the petitioner in accordance with law. The material available on record is not sufficient to decide these questions of fact.

In the circumstances, I am of the opinion that the matter can be disposed of with a direction to the Collector, Nizamabad District to conduct an enquiry into the following facts :

(1) As to the date of the laying of the disputed road

(2) Whether any portion of the road is laid on any piece of land of which the petitioner is the owner.

(3) If the answer to the 2nd question is in the affirmative, whether any proceedings in accordance with law are taken to obtain possession of the said piece of land from the petitioner.

If the answer to the 3rd question is negative, the Collector is directed to take appropriate proceedings in accordance with law for the acquisition of the said piece of land and pay compensation to the petitioner. The said enquiry shall be concluded within a period of three months from the date of receipt of this order.

The writ petition is disposed of with the direction as above.

(J.CHELAMESWAR, J)

29th August, 2006.
Knk